

S/L 51
11.08.2025
Court. No. 3
SR.

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

**CO 175 of 2024
With
CAN 3 of 2025**

**Ritesh Agarwal & Ors.
v.
Chandmoni Uttorayon Welfare Society**

*Mr. Subham Ghosh
Mr. Mayank Roy*

...for the petitioners.

*Mr. Suresh Kumar Mitruka
Ms. Shruti Yadav
Mr. Sujit Swami*

..for the opposite party.

1. On behalf of the revisionists an accommodation has been prayed for.
2. Prayer for accommodation is considered and rejected
3. On behalf of the present revisionists an affidavit-in-reply is filed and the same is taken on record.
4. On being asked by this Court, learned advocate for the writ petitioners insisted for accommodation.
5. Such prayer is again considered and rejected.
6. Considering the circumstances, this Court proposes to dispose of the instant revisional application on its merit.
7. It is submitted on behalf of the opposite party that the instant revisional application is not maintainable. Learned advocate for the opposite party submits that the instant revisional application may be dismissed.
8. On careful perusal of the entire materials as placed before this Court, it appears that the subject matter of challenge in the instant revisional application is the Order No.25 dated 7th September, 2024, as passed by the learned Civil

Judge (Junior Division), Siliguri in Title Suit No.143 of 2019 whereby and whereunder the said Court by the impugned order was pleased to reject the defendants' application for rejection of plaint as filed under Order 7 Rule 11 CPC.

9. On careful perusal of the entire materials as placed before this Court, it reveals that it is the case of the defendants before the learned Trial Court that the suit as filed is undervalued and, thus, appropriate court fees has not been paid.
10. It is the further assertion of the defendants before the learned Trial Court that the suit as filed does not disclose any cause of action and further that the said suit is not at all maintainable at the instance of the plaintiff.
11. On careful perusal of the order impugned, it appears to this Court that the learned Trial Court while passing the impugned order has come to a finding that the plaintiff before him has approached for declaration for avoiding a deed of assignment dated 24th July, 2018.
12. While passing the impugned order, learned Trial Court rightly noticed that since the plaintiff before him was not a party to the said deed of assignment, there is no necessity for filing *ad valorem* court fees on the market value of the deed of assignment.
13. It further appears to this Court that the learned Trial Court also noticed that there are sufficient cause of actions for filing the suit by the present plaintiff, which reveals from the averments made in the plaint. If further appears to this Court that the learned Trial Court while

passing the order impugned has not touched the issue of point of maintainability of the said suit, which in considered view of this Court, is to be decided by the learned Trial Court by framing an issue to that effect especially when no specific case has been made out on behalf of the defendants that the suit as filed by the plaintiff appears to be barred by any law from the averments made in the plaint.

14. Such being the position, this Court finds hardly any scope to interfere with the order impugned by which the learned Trial Court came to a finding that the prayer for rejection of the plaint as made by the defendants before him is not tenable.
15. In view of the discussions made hereinabove, the instant revisional application is hereby dismissed.
16. Consequently, the Order No.25 dated 7th September, 2024 as passed in Title Suit No.143 of 2019 is hereby affirmed.
17. Consequently, CO. 175 of 2024 and CAN 3 of 2025 are hereby dismissed.
18. Before parting with, this Court requests learned Trial Court to expedite the Title Suit No.144 of 2019 in order to arrive at a logical conclusion on the same preferably within twelve months from the date of communication of this order.
19. There shall, however, be no order as to costs.
20. Department is directed to forward a copy of this order to the learned Trial Court forthwith.
21. Liberty to communicate.

22. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Partha Sarathi Sen, J.)